No. 92-972

Supreme Court, U.S.
FILED
DEC 31 1992
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

October Term, 1992

SOUTHERN SLIP FORM SERVICES, INC.
Petitioner

versus

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
Respondent

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF LOUISIANA

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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Franklin Press, Inc. • Baton Rouge, Louisiana

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SOUTHERN SLIP FORM SERVICES, INC.
Petitioner

versus

LOUISIANA DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT
Respondent

BRIEF IN OPPOSITION TO APPLICATION FOR WRIT OF CERTIORARI FILED BY SOUTHERN SLIP FORM SERVICES, INC.

STATEMENT OF THE CASE

Respondent generally agrees with the factual statements in petitioner's Statement of the Case, except that it denies that the application for certification as a Women's Business Enterprise was filed under the provisions of Louisiana R.S. 48:234. The application was filed under the provisions of 49 CFR 23.55. The rejection of petitioner's application was a final decision under State law and was a recommendation for rejection which

could be appealed to the Secretary of the United States Department of Transportation. The applicant was advised of this right to appeal by letter dated July 9, 1990 which was introduced as Exhibit "A" in the Trial Court proceedings, a copy of which is attached to this brief as Appendix "A." The decision to recommend that this firm not be certified as a Women's Business Enterprise was a final decision at the State level, but was not final administrative action. It was a decision made pursuant to the Code of Federal Regulations and was appealable under the Code of Federal Regulations as set forth in the letter. The application of Southern Slip Form Services, Inc. clearly indicated that this was an application to be certified as to eligibility pursuant to 49 CFR part 23. A copy of the instructions for application and the application was attached to respondent's Application for Certiorari to the Court of Appeal, First Circuit of the State of Louisiana and a copy of that application is attached hereto as Appendix "B" of this brief. Louisiana has not adopted any separate regulations for certification with regard to purely State projects as found by the Louisiana Court of Appeal, First Circuit in its decision which appears at Page B-1 of Appendix "B" of applicant's brief (See Appendix "C").

ARGUMENT

The Writ Application of petitioner's should be denied. The facts in the case indicate that Louisiana has never adopted regulations pursuant to the statutory authority cited in petitioner's brief and further indicate that the entire application was made under the Code of Federal Regulations. The letter advising the petitioner of the rejection of its application by the Certification Committee of the Department of Transportation and Development clearly indicated that the appeal should be directed to Mr.

Samuel Skinner, Secretary, Department of Transportation, 400 Seventh Street, SW, Room 10200, Washington D. C. 20590 and further indicated that the appeal had to be made within one hundred and eighty (180) days.

Petitioners chose not to continue to pursue their administrative remedies but to attempt to have a judicial review of a decision made under the Code of Federal Regulations by State Court and therefore failed to exhaust their administrative remedies.

The record clearly shows that the plaintiff was advised of its appeal rights to the United States Department of Transportation. The Code of Regulations 49 CFR 23.55 specifically provides a right of appeal from State action. Until the Federal Department of Transportation takes final action there is no appealable action. The only avenue of appeal for a person who is denied certification by a State Committee under the regulations as provided by the Code of Federal Regulations is to the United States Department of Transportation. This should be the final agency action at which time petitioners would have a right to appeal to the United States District Court if the final decision of the United States Department of Transportation was adverse to them.

Although there are apparently no Louisiana cases on this particular point, there are two cases from other states which are squarely in point and which support the position of the Louisiana Department of Transportation and Development in this matter. In *LPG Construction Company, Inc. v. Pennsylvania Department of Transportation*, 501 A. 2d 360 (1985) a contractor was denied Minority Business Enterprise certification by the Pennsylvania Department of Transportation and attempted to

appeal directly to the State Court of Pennsylvania under the Administrative Procedure Law. The Pennsylvania Court held that the denial of the Minority Business Enterprise certification was subject to further administrative review by the United States Department of Transportation pursuant to 49 CFR 23.55 and held that the State agency's decision was not a final administrative order and therefore not appealable under the Administrative Procedure Act. The Court found that the Pennsylvania Department of Transportation's denial of the application for Minority Business Enterprises certification was not conclusive since the plaintiff had a right to appeal to the United States Department of Transportation under the provisions of 49 CFR 23.55. The Court stated that the administrative actions are adjudicatory in character only when they culminate in a final determination affecting personal or property rights and since the Pennsylvania Department of Transportation's action did not finally dispose of appellant's application for Minority Business Enterprise certification, there was no adjudication from which an appeal could be taken to the Pennsylvania State Courts. The Court also noted that a person dissatisfied with the ruling of the United States Department of Transportation had a right to judicial review in the Federal Courts. The Court stated as follows:

> "We further note that in a case such as this, there will never be adjudication appealable to this Court. In the event Appellant exercises its right to appeal to the U.S. DOT under 49 CFR Section 23.55, the final decision of the U.S. DOT will be a final order of federal agency, not a Commonwealth agency. Since our jurisdiction limits our review of adjudications of Commonwealth agencies, should appellant be dissatisfied with the result with the U.S. DOT, it must turn to the federal courts for review." Id at Page 362.

In addition, the State Courts of Ohio have addressed a similar question in *Central Ohio Waterproofing Company v. Smith,* 521 N.E. 2d 1133, (Court of Appeals of Ohio, 1987). That case involved the decertification of a contractor and the decertified contractor argued that since the decision was made by the Ohio Department of Transportation that it was therefore an administratively final decision of the State which was appealable to State Court. The Ohio Court disagreed. The Court stated that the whole reason for certification by the State Department of Transportation was created by Federal Regulations. Since Federal Regulations explicitly provided that an appeal from a State Department of Transportation's decision not to certify a firm may be made under 49 CFR 23.55 the Court held that the proper method of appealing the State's decision would be to the United States Department of Transportation under that provision of the Code of Federal Regulations and not to the State Court. The Ohio Court also noted that after the plaintiff had exhausted its appeal with the United States Department of Transportation that further Court action to review the United States Department of Transportation's decision must be brought to Federal Court, not to State Court.

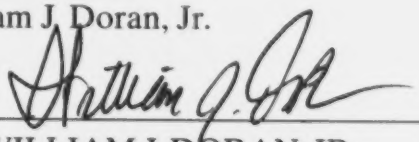
The existence of the right to appeal to the United States Department of Transportation makes it clear that the Federal laws and regulations have set out the procedure for appealing from any decision under the Disadvantaged Business Enterprise Program and that the State Courts have no jurisdiction to judicially review a decision not to certify since the final action under the administrative scheme lies with the United States Department of Transportation.

CONCLUSION

It is respectfully submitted that the decision of the Louisiana Court of Appeal, First Circuit, is correct in fact and in law; that the Supreme Court of the State of Louisiana properly denied the Writ Application; and that this application for Writ Certiorari should be denied.

RESPECTFULLY SUBMITTED:

Norman L. Sisson, General Counsel
Sharon F. Lyles
William J. Doran, Jr.

By: 

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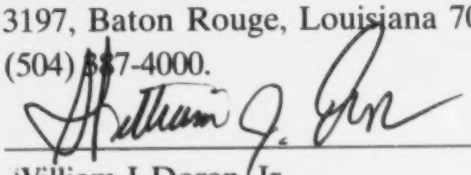
Telephone: (504) 924-4284
Louisiana Bar Roll No. 5020

PROOF OF SERVICE

I, William J. Doran, Jr., attorney for the State of Louisiana, Department of Transportation and Development, Respondent herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that three (3) copies of the above Brief in Opposition to Application for Writ of Certiorari, and its Appendices, has been sent this date, United States Mail, postage prepaid and properly addressed to: Southern Slip Form Services, Inc., Applicant in connection with this Petition for Writ Certiorari, through its counsel of record, Mr. Murphy J. Foster, III, Breazeale, Sachse & Wilson, 23rd Floor, One American Place, Post Office Box 3197, Baton Rouge, Louisiana 70821-3197, telephone number (504) 387-4000.

By: 

William J. Doran, Jr.
Louisiana Bar Roll No. 5020

APPENDICES

APPENDIX A

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

P.O. Box 94245, Baton Rouge, Louisiana 70804-9245

NEIL L. WAGONER, P.E., SECRETARY

BUDDY ROEMER, GOVERNOR

July 9, 1990

DB/WBE CERTIFICATION

Mrs. Christina Guillot
Southern Slip Form Services, Inc.
7153 Hickory Grove Road
Deville, Louisiana 71328

Dear Mrs. Guillot:

Your application to the Department of Transportation and Development for certification as a woman business enterprise has been rejected by the certification committee for the reasons stated in our March 7, 1990 letter (copy attached).

THIS DECISION IF (SIC) FINAL AT THE STATE LEVEL.

You may appeal this decision directly to:

Mr. Samuel Skinner, Secretary
Department of Transportation
400 Seventh ST., SW, Room 10200
Washington, D. C. 20590

If you wish to appeal, you must do so no later than 180 days after the date of denial of certification.

A business that is denied certification or recertification by DOTD may not reapply for at least 180 days from the date of the final decision of the panel. A business that appeals to the U.S. Department of Transportation cannot reapply to DOTD until a final decision has been rendered on the appeal.

Sincerely,

/s/Lu Carradine
Compliance Programs Director

LC:fjc

Attachment

cc:FHWA

APPENDIX B

STATE OF LOUISIANA
DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT

APPLICATION FOR
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AND/OR
WOMANS BUSINESS ENTERPRISE (WBE)

Revised May 1, 1989

NEIL L. WAGONER, P.E., SECRETARY

BUDDY ROEMER, GOVERNOR

STATEMENT AND PURPOSE

In an effort to encourage businesses owned and controlled by disadvantaged persons, minorities, or women to participate in transportation-related contracts, Louisiana has developed this certification application to determine whether your firm qualifies for the Disadvantaged Business Enterprise (DBE) Program as established in Part 23, Title 49 of the Code of Federal Regulations. The application is also used to determine the adequacy of your resources for the work in your designated service or product.

Upon receipt of your completed certification application, the department will evaluate the information submitted to determine whether your firm is eligible to participate as a DBE. It is, therefore, imperative that your application and any attached

documentation provide evidence of the ownership and control of your firm. You should also show that your firm has the resources necessary to perform the work you desire. Only those firms which have been certified under this process can be considered for participation in the department's DBE Program.

To discourage abuse in the program, the application is in the form of a *sworn affidavit.* The information requested is for department purposes only and will be kept confidential to the extent allowed by law. Some portions of the certification application and/or documentation may be released under the Freedom of Information Act. ANY FALSE INFORMATION SUBMITTED BY APPLICANTS WILL BE CONSIDERED AS GROUNDS FOR DENIAL/DECERTIFICATION AND FOR PROSECUTION.

We urge you to take advantage of the opportunities offered under this program by filling out the attached application. If you need assistance, or have questions regarding completion of the application, please contact the Compliance Programs Section at (504) 379-1382.

Others May Challenge Your Eligibility For Certification

1. If you are a woman, black, Hispanic, Native American, Asian-Pacific American, or Asian-Indian American you are presumed to be socially and economically disadvantaged. Other persons, knowing of your actual social and economic condition, living standards, success in business, and so forth, have the right to challenge your recognition and certification as a DBE. A procedure exists by which these "third parties" may file such challenge. If your status as a DBE is challenged, you will be given every opportunity to defend yourself. The challenge itself will not affect your status with the department until the challenge has been fully investigated, heard and a *final* determination made.

2. Third parties who have reason to believe that another firm has been wrongly granted certification as DWE/WBE or Joint

Venture, may advise the department's Certification Committee through the Compliance Programs Office at (504) 379-1382.

A Final Word

The department's certification process is designed for your benefit. Its purpose is to ensure that only bona fide small, socially and economically disadvantaged and women businesses benefit from this program.

STATE OF LOUISIANA
DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT

P.O. BOX 94245
BATON ROUGE, LOUISIANA 70804-9245

HOW TO APPLY FOR DOTD CERTIFICATION

Step A. There are two different "Schedules" or application forms available to your firm. They are Schedule A and Schedule B.

1. *Schedule A,* which is attached, must be completed by all companies, firms and truck owner-operators wanting to be certified as a Disadvantaged Business Enterprise (DBE) or as a Woman Owned Business Enterprise (WBE). All questions *must* be answered. All attachments listed in Item 25 appropriate to your firm *must* be attached to the Schedule A.

2. *Schedule B* must be completed by all firms seeking joint venture certification for one specific project. DBE and WBE firms participation in a joint venture must also have an approved Schedule A or submit a Schedule A with the Schedule B. Schedule B may be requested from the Compliance Programs Section.

Step B. When you have decided which schedule matches your situation:

Fill out the form carefully and completely, sign it, have it notarized and send it to:

Department of Transportation and Development
P. O. Box 94245
Baton Rouge, LA 70804-9245
Attention: Compliance Programs Section

Questions that do not apply to your firm should be marked N/A in the space provided. All questions must be answered and the requested documents submitted to he department along with the application. Failure to do this will delay the processing of your application.

If you have additional information that is not requested in the application and will help prove that your firm is eligible, please attach it to your application.

The Certification Process

1. Your application is reviewed by the Compliance Programs Office to see that it is complete and additional information may be requested from you at that time.

2. A representative from the Compliance Programs Section will contact you to schedule an on-site review of your firm. Whenever possible, an on-site review will be conducted prior to your firm's review by our certification committee.

3. The department's Certification Committee will evaluate the information contained in your application, along with facts learned during the on-site review and determine if your firm meets the definition of a DBE or WBE or, perhaps both.

4. You will be notified of the Certification Committee's decision by letter. If your application is approved and you have been certified as a DBE or WBE or both, your company will be added to the department's list of Certified DBEs or WBEs. The list will show your firm's name, address, telephone number, and name of the contact person in your firm. It will also give a brief description of the type of work you are certified to do.

4. (sic) If you are denied certification, you may first appeal to the Certification Committee for review of your file.

Final Rejection

If your application for certification is not approved following a review by the committee, you may appeal that decision. To appeal you *must write a letter,* giving the reason(s) you feel that you should be certified, and send the letter to:

Secretary
U.S. Department of Transportation
400 Seventh St., SW
Room 10200
Washington, D.C. 20590

You must file your appeal no later than 180 days from the date you were notified that your application for certification was denied.

INSTRUCTIONS. All information requested in this schedule is required to be submitted. If an item does not apply to you or your firm, mark "N/A." CERTIFICATION WILL NOT BE GRANTED ON INCOMPLETE INFORMATION.

Firms not located in Louisiana should provide evidence of certification by the state highway agency of their home state. Corporations must attach copies of articles of incorporation, bylaws, stock certificates and minutes of meetings held by the corporation which establish the authority and responsibilities of its officers.

DEFINITIONS. A Disadvantaged Business Enterprise (DBE) is a small business which is at least 51 percent owned by one or more socially and economically disadvantaged individuals inclusive of women or which, in the case of a publicly owned business, has at least 51 percent of the stock owned by one or more socially and economically disadvantaged individuals, and whose management, policies, and major decisions and day-to-day decisions on matters of management, policy, and operations are controlled by one or more of the socially and economically disadvantaged individuals who have ownership in the firm.

Socially and economically disadvantaged individuals are citizens of the United States (or lawfully admitted permanent residents) who are:

- Women
- Black Americans
- Hispanic Americans
- Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians)
- Asian-Pacific Americans (persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Phillipines, Samoa, Guam, the U.S. Territories of the Pacific and the Northern Marianas), and
- Asian-Indian Americans (persons whose origins are from India, Pakistan, and Bangladesh)

and who are regarded by their respective minority community as a member of that particular minority group. Any other U.S. citizen who is found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act may be regarded as a socially and economically disadvantaged individual.

Certification as a Woman Business Enterprise entitles a firm to participate as a Disadvantaged Business Enterprise unless otherwise indicated.

SCHEDULE 'A'
INFORMATION FOR DETERMINING
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AND/OR
WOMAN BUSINESS ENTERPRISE (WBE)

ELIGIBILITY
PURSUANT TO 49 CFR, PART 23

PROVIDED TO
THE DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
STATE OF LOUISIANA

BY
SOUTHERN SLIP FORM SERVICES, INC.
Date: 12/29/89

SUBMIT APPLICATION TO:
Department of Transportation and Development
P.O. Box 94245, Capitol Station
Baton Rouge, Louisiana 70804-9245
Attention: Compliance Programs Section

DBE/WBE CERTIFICATION APPLICATION

Certification will not be granted on incomplete information.

Note: If after filing this application, and prior to the expiration of your certification, there is a change in the ownership and/or management of this, you must submit a new certification application within two (2) weeks after the change. Failure to comply with this requirement will lead to a loss of certification.

Certification status desired:

☐ Disadvantaged Business Enterprise (DBE)
☒ Woman Business Enterprise (WBE)
☐ Both DBE/WBE

Name of Firm: Southern Slip Form Services, Inc.

Street Address of Firm: 7153 Hickory Grove Road

City, State and Zip Code: Deville, LA 71328

Mailing Address of Firm: Same as Above

City, State and Zip Code: Same as Above

Phone Number of Firm: (318) 466-3177

Contact Person: Christina Guillot

Title: President

Phone Number: (318) 253-5792

1. List other business names previously used: NONE
2. Is your firm currently certified by the Small Business Administration (SBA) under the 8(a) program? Yes ☐ No ☒
   If yes, submit a copy of your SBA certification letter.
3. Give beginning date of firm: July 27, 1988
4. Legal Structure:
   a. Sole proprietorship ☐
   b. Corporation ☒
   c. Partnership ☐
   d. Joint Venture ☐
   e. Other Business Entity ☐ Specify _____
5. Has your firm applied for reorganization under Chapter 11 and/or liquidation under Chapter 7, within the last three years? Yes ☐ No ☒
6. OWNERSHIP - Identify all individuals or holding companies and list their cash, equipment, and/or real estate investment in the firm; *and* attach the documentation of the source of these investments. (If additional space is required, submit an attached sheet.) Resumes of each owner must be attached.

   Name: Trudy T. Belgard Title: Secretary-Treasurer

Race/Ethnic Origin: White Sex: Female
Years of Ownership: 1
Ownership and Voting Percentages: 60%/60%
Initial investment to acquire ownership in firm:
Money - $6,000
Equipment - $ ____
Real Estate - $ ____
Name: Christina B. Guillot Title: President
Race/Ethnic Origin: White Sex: Female
Years of Ownership: 1
Ownership and Voting Percentages: 40%/40%
Initial Investment to acquire ownership in firm:
Money - $4,000
Equipment - $ ____
Real Estate - $ ____

7. CONTROL

CAREFULLY COMPLETE THE ITEMS OF CONTROL LISTED BELOW. Indicate management personnel who control the firm in the following areas (Attach work experience resumes - include dates of employment at each company for each person).

Financial Decisions: Responsibility for check signing; acquisition of lines of credit; loans, surety bonding; supplies, etc.

Person(s) Responsible	Title	Race/Sex
Trudy Belgard	Secretary-Treasurer	W/F
Christina Guillot	President	W/F

Estimating: Cost estimates, bid preparation, or negotiations.

Person Responsible	Title	Race/Sex
Christina Guillot	President	W/F

Hiring/Firing of Management Personnel:

Person(s) Responsible	Title	Race/Sex
Trudy Belgard	Secretary-Treasurer	W/F
Christina Guillot	President	W/F

Field/Production Operations Supervisor: Site supervision/ scheduling; project management services.

Person Responsible	Title	Race/Sex
Christina Guillot	President	W/F

Contract Signature Authority: Contract execution, bid submission.

Person(s) Responsible	Title	Race/Sex
Trudy Belgard	Secretary-Treasurer	W/F
Christina Guillot	President	W/F

Office Management:

Person(s) Responsible	Title	Race/Sex
Trudy Belgard	Secretary-Treasurer	W/F
Christina Guillot	President	W/F

Marketing/Sales:

Person Responsible	Title	Race/Sex
Christina Guillot	President	W/F

Purchasing of Major Equipment:

Person(s) Responsible	Title	Race/Sex
Trudy Belgard	Secretary-Treasurer	W/F
Christina Guillot	President	W/F

8. Identify officers *(work experience resumes of each person must be attached).* Additional sheets may be attached.

Name	Title	Race/ Sex	Date Appointed
Trudy T. Belgard	Secretary-Treasurer	W/F	7/27/88
Christina B. Guillot	President	W/F	7/27/88

9. Identify current Board of Directors *(work experience resumes of each person must be attached).* Additional sheets may be attached.

Name	Title	Race/ Sex	Date Appointed
Trudy Belgard	Secretary-Treasurer	W/F	7/27/88
Christina Guillot	President	W/F	7/27/88

OPERATIONS

10. List the three largest projects in dollar amounts completed by your firm during the past three years.

    N/A

11. List all active jobs on which this firm is currently working.

    None.

12. Attach a list of construction equipment and/or vehicles in possession or under your control (indicate separately), and a list of office equipment, office space (owned or leased), and storage space (owned or leased), including signed leased agreements.

13. Identify persons or firms who provide the following services:

    External Management or Technical/Computer Services:

    Firm Name: N/A

    Phone:

    Address:

    Contact Person:

    Accountant

    Firm Name: Cenla Accounting & Tax Service

    Phone: (318) 640-2283

    Address: 707 Shanghai Road, Pineville, LA 71360

    Contact Person: Doug Stedman

    Attorney

    Firm Name: Terrell and Aymond

    Phone: (318) 445-6278

    Address: 810 Main Street, Pineville, LA 71360

    Contact Person: Gregory Aymond

    Principal Suppliers (Materials and Equipment)

    Firm Name: N/A Phone:

    Address:

    Contact Person:

14. List firm's current licenses (contractors, engineering, etc.) Copy of license required.
    Classification(s): Louisiana Contractors License (Highways, Streets, and Bridges)
    Qualifying Party for exam: Christina Guillot
15. Provide the following banking information:
    Bank Name: First Bank Phone: (318) 473-6930
    Address: 1412 Jackson Street, Alexandria, LA 71301
    Contact Person: Robert Levens
16. Who are the authorized signatures on this firm's checking account? Trudy Belgard and Christine Guillot
17. What is your firm's current working capital? $49,377.21
18. Does your firm have a secured line of credit? Yes ☐ No ☒
    If yes, provide a copy of the letter showing the source and amount extended.
19. If your firm has bonding capabilities complete the following:
    Agent Broker: N/A Phone:
    Address:
    Bonding Limit:
20. Provide a copy of your firm's *entire* corporate income tax returns for the last three years. Below specify the gross receipts for the last three years.
    Year ending: December 31, 1988 Total Receipts: 0
21. Has this firm or any of its owner, board of directors, officers, or management personnel been denied DBE certification or decertified previously? Yes ☒ No ☐
    If yes, indicate the state, name of agency, and date:
    Louisiana; Department of Transportation and Development; October 4, 1988
22. Provide a listing of the salaries of each of the owners.
    Owners not yet drawing salaries.
23. How many full and part-time employees does your firm have?
    Full Time: 2 Part-time: 0

24. Nature of firm's business. Check the type of work which makes up 75% or more of the dollar volume of work done by your firm. If this is a new firm check the items of work you intend to perform. If move than one item is checked, give the percent of total dollar volume earned or anticipated to be earned for each item.

    Southern Slip-Form Services is licensed to perform every part of road and bridge construction. The percentage of income from each will be determined by amount of available work under each subsection and how successful we will be as a WBE certified corporation in bidding and negotiating work under each subsection.

25. Submit the following documents with this application. Place the mark "X" in the blank opposite each item you submitted:

    PART I. *FOR A CORPORATION:*

    - ☒ a. Current financial statement prepared by an independent CPA or accountant (last 6 months).
    - ☒ b. Resumes of principals of your company showing education, training, and employment with dates.
    - ☒ c. License to do business in Louisiana.
    - ☒ d. Articles of incorporation, and all addendum, including date approved.
    - ☒ e. Minutes of first corporate organizational meeting.
    - ☒ f. Corporation By-Laws.
    - ☒ g. Copy of stock certificate(s) issued (not a specimen copy) to all stockholders.
    - ☐ h. Stock transfer ledger.
    - ☒ i. Proof of stock purchase such as cancelled checks.
    - ☐ j. Copies of third party agreements, such as lease, rental or management service agreements, etc.
    - ☐ k. If a "Foreign Corporation," copy of authority to do business in Louisiana.
    - ☒ l. Proof of minority status (see Page 18).
    - ☒ m. Report of *Gross Receipts* submitted to the Internal Revenue Service.

☐ n. Furnish copies of agreements relating to:
- Stock options
- Ownership agreements
- Stockholder agreements
- Restrictions on disposal of stock loan agreements
- Stockholder voting rights
- Ownership of voting securities

PART II. *FOR A PARTNERSHIP AND SOLE PROPRIETORSHIP:*

☐ a. Current financial statement prepared by an independent CPA or accountant.

☐ b. Resumes of principals of your company showing education, training and employment with dates.

☐ c. License to do business in Louisiana.

☐ d. Partnership agreement.

☐ e. Buy out rights agreement.

☐ f. Profit sharing agreement.

☐ g. Proof of capital invested.

☐ h. Proof of minority status (see Page 18).

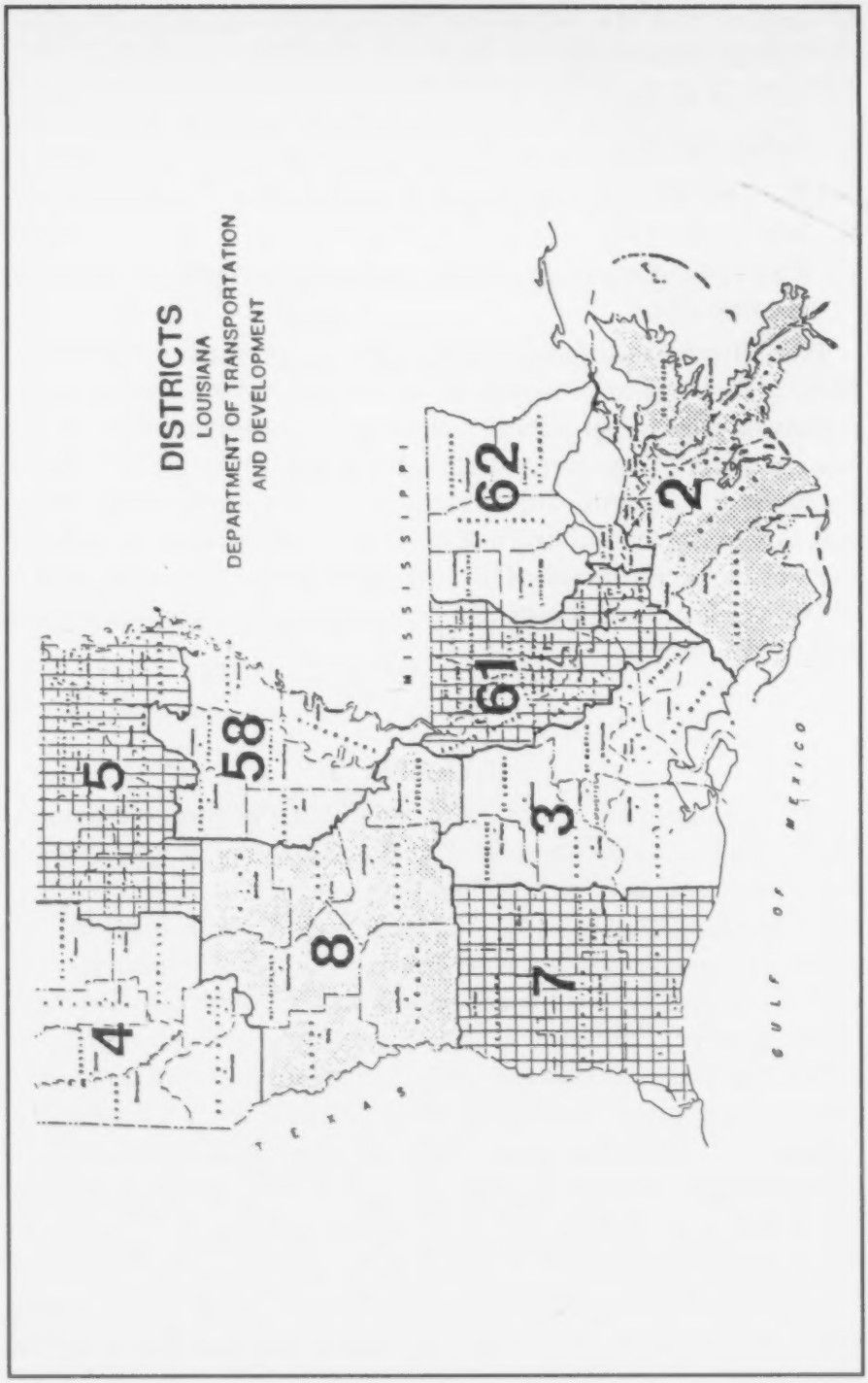
☐ i. Report of Gross Receipts submitted to the Internal Revenue Service.

26. Using the map attached, please check the geographic areas your firm will be willing to work in.

☐ 02	☐ 08
☐ 03	☐ 58
☐ 04	☐ 61
☐ 05	☐ 62
☐ 07	☒ STATE WIDE

ACCEPTABLE EVIDENCE OF MINORITY STATUS

1. Birth certificate
2. Naturalization papers
3. Passports


DISTRICTS
LOUISIANA
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
MISSISSIPPI
62
2
61
58
5
3
8
7
4
GULF OF MEXICO

4. Indian tribal roll, tribal voter registration certificate, or other *official* documents
5. Drivers license
6. School records
7. Medical records
8. Service records
9. Proof of membership and interaction in recognized minority organizations.

In addition to those items listed above, you must submit verification that you are recognized in the particular minority community as a minority. Submit a notarized statement from a bona fide member of the community who is not a relative and not a member of this firm. This statement should attest to knowing you as a minority and knowing you to be recognized as such by that minority community. (Because of their special status, proof of Native American status can be accepted only in the form of *official documents).*

AFFIDAVIT

The undersigned swears or affirms that the foregoing statements are true and correct and include all material information necessary to identify and explain the operation of Southern Slip-Form Services, Inc. as well as the ownership thereof. Further, the undersigned agrees to provide through the prime contractor, or, directly to the Louisiana Department of Transportation and Development, complete and accurate information regarding actual changes, if any, to the foregoing arrangements and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements and fraud.

That the business/firm agrees to comply with the requirements set forth in 49CFR23, the department's DBE Program

and the department's DBE Implementation Guide. Furthermore, the applicant agrees to furnish all requested information which the department deems necessary in order to make an accurate determination on this firm's eligibility. Failure to comply with these rules and regulations could result in the decertification of your firm or other sanctions deemed necessary.

Signature: s/Christina B. Guillot
Title: President
Date: December 29, 1989

Notary Seal

Subscribed and sworn to before me
this 29 day of December 1989
Signed: s/ Finis L. Duff
Parish of: Rapides State: La
My Commission Expires: 26 Jan 91

Witness: s/ Ronnie L. Duff
Witness: s/ Johnna Haynes

APPENDIX C

STATE OF LOUISIANA
DIVISION OF ADMINISTRATION

504-342-5015
LINC 421-5017

BUDDY ROEMER, GOVERNOR

DENNIS STINE, COMMISSIONER

November 19, 1990

Mr. Steven Loeb
Breazeale, Sachse and Wilson
Post Office Box 3197
Baton Rouge, Louisiana 70821

Dear Mr. Loeb:

This is to certify that according to our records there have been no rules promulgated by the Louisiana Department of Transportation and Development pertaining to Disadvantaged Business Enterprise or Women's Business Enterprise Programs.

If our office can be of further assistance to you please feel free to call on us.

Sincerely,

/s/Nancy Midkiff (KMB)
Director

NM/kmb